

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for
Termination of Probation of:

MARK L. SAGINOR, M.D.,

Physician's and Surgeon's
Certificate No. G8242

Respondent.

Case No. 26-2010-205780

OAH No. 2010080788

DECISION AFTER NONADOPTION

The proposed decision of the administrative law judge was submitted to Panel B of the Medical Board of California (hereafter "board") on November 18, 2010. After due consideration thereof, the board declined to adopt the proposed decision and thereafter on February 4, 2011, issued an Order of Nonadoption and subsequently issued an Order Fixing Date for Submission of Written Argument. On April 7, 2011, the board issued a Notice of Time for Oral Argument. Oral argument was heard on May 5, 2011, and the board voted on the matter that same day. The time for filing written argument in this matter having expired, written argument having been filed by both parties and such written argument, together with the entire record, including the transcript of said hearing, having been read and considered, pursuant to Government Code Section 11517, the board hereby makes the following decision and order:

ORDER

The attached Proposed Decision dated November 18, 2010, is hereby adopted by the board as its decision in this matter.

This decision shall become effective at 5 p.m. on June 16, 2011.

IT IS SO ORDERED this 17th day of May, 2011.



HEDY CHANG, Chairperson
Panel B

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DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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MARK L. SAGINOR, M.D.,

Physician's and Surgeon's Certificate
No. G8242

Respondent.

Case No. 26-2010-205780

OAH No. 2010080788

PROPOSED DECISION

Mary-Margaret Anderson, Administrative Law Judge, State of California, Office of Administrative Hearings, heard this matter on September 28, 2010, at Oakland, California.

Respondent Mark L. Saginor, M.D., represented himself.

Kerry Weisel, Deputy Attorney General, represented the Office of the Attorney General, Department of Justice.

The record closed September 28, 2010.

FACTUAL FINDINGS

Background

1. On November 21, 1962, the Medical Board of California (Board) issued Physician's and Surgeon's Certificate number G8242 to Mark L. Saginor, M.D., (Respondent). It is currently renewed until January 31, 2011.

2. On December 3, 2004, a superior court judge suspended Respondent from practicing medicine (Penal Code section 23) pending the outcome of criminal proceedings. The criminal case was grounded in Respondent's conduct with a female patient in September 2004. It was dismissed following Respondent's completion of a drug rehabilitation program. The suspension order was lifted on September 8, 2006.

3. The initial Accusation in this matter was signed on March 20, 2007. First and Second Amended Accusations were subsequently filed, and an evidentiary hearing was held on November 27 through 30, 2007.

4. Effective March 3, 2008, the Board revoked Respondent's certificate, stayed the revocation, and placed it on probation for five years pursuant to terms and conditions. The discipline was based upon findings of unprofessional conduct for acts of sexual misconduct with a patient; possession of illegal drugs (cocaine); use of illegal drugs (cocaine); repeated negligent acts; and failure to maintain medical records, as well as sexual exploitation of a patient.

The probation order included the standard terms and conditions and the following additional terms: total restriction from ordering, prescribing, dispensing, possessing, or administering controlled substances; abstention from the use of controlled substances and alcohol; submission to biological fluid testing; completion of medical record keeping and ethics courses; and completion of a professional boundaries program.

5. On approximately March 4, 2010, Respondent filed with the Board a Petition for Penalty Relief requesting that probation be terminated before the time scheduled for termination (March 3, 2013). This hearing followed.

Findings of the Board's Probation Unit

6. Respondent is in compliance with the probation order in every respect. He completed a professional boundaries program on September 26, 2008, a medical record keeping course on October 31, 2008, and an ethics course on September 16, 2009. All of the biological fluid tests were negative for prohibited substances.

7. Both of the physicians who wrote letters concerning Respondent were interviewed by Board staff and confirmed that they wrote the letters and continued to support Respondent in his efforts to terminate probation. Both are in good standing with the Board.

Respondent's Evidence

8. Respondent is currently engaged in the practice of internal medicine/endocrinology, as a sole practitioner, in Los Angeles.

9. In the written narrative statement that accompanies his petition, Respondent's comments include the following:

So, in summary, on this Thanksgiving Day, I am grateful for all I have been given by my family, friends, and God. My incredible personal growth, new life, and many learning experiences I have had over these past 5 years in AA, as well as

the invaluable lessons learned through Judge Flores' orders, are blessings I never expected to receive. I believe I have demonstrated by word and deed the willingness and ability to take on the responsibilities inherent in the practice of medicine as well as the judicious and compassionate care of my patients!

I would like to devote my remaining years to the practice of Rehabilitation/Addiction Medicine. I feel that my journey through the mine fields of life has given me the tools necessary to help myself and others afflicted with drug and alcohol abuse problems.

10. At hearing, Respondent testified consistently with his written narrative statement. He is grateful to Alcoholics Anonymous and the Promises program, as he had previously thought that he would never be able to extricate himself from his addiction to cocaine. Respondent was enrolled at Promises for 18 months and was an in-patient for six weeks. He described Promises as a re-education center where he learned how to stay sober. It has been over five years since he completed that program. Now, he continues to meditate, reads the AA "Big Book," and says prayers of gratitude twice daily. Although he had one slip-up in the first six weeks at Promises, he has had none since. The random tests were all negative. He also attends AA meetings two to three times weekly. At first, it was something he had to do, but now he enjoys it and has many friends in AA. His fiancé has been in AA for 12 years and they go to meetings together and "share the lifestyle."

Respondent is also grateful for the courses that he was required to take. He was very impressed with all three of them and learned a great deal. Respondent was initially surprised to learn about the restrictions on relationships with patients. He recalled that in the past these only applied to psychiatrists, but he now sees and accepts the need for the rules.

11. Respondent shares an office with one of the physicians who wrote a letter of support. He enjoys diagnostic medicine and providing routine care, but aspires to work at a drug and alcohol rehabilitation facility. He notes that Promises has physicians on staff and he would like to work there. The restrictions on prescribing in the probation order, however, currently prevent such employment.

12. Michaela Shea wrote a letter and also testified on Respondent's behalf. They met while both were attending the Promises program and have lived together for about four years. Shea stated that everything in Respondent's testimony was true; that Respondent has made serious changes in the past five and one-half years and that these changes have been "wonderful to see." Shea wrote that they have a "lifestyle that is very simple and basic. Our priorities are sobriety, work, and family," and that Respondent "is extremely self-disciplined, self-driven, and accountable. He works long hours and never cancels a commitment."

13. Respondent submitted an additional nine reference letters in support of his petition.

14. Michael L. Chaikin, M.D., F.A.C.C., is an associate clinical professor at the USC Keck School of Medicine. He is also in private practice and shares office space with Respondent. Dr. Chaikin notes that he has known Respondent for many years and has also seen the original accusation. He asserts that Respondent "has complied with all of the rules in his practice," and further, "has not written for any scheduled medications." Dr. Chaikin also wrote that Respondent has been attending AA meetings, has been completely sober at all times, and "appears to be practicing at an excellent level."

15. George Weinberger, M.D., is in private practice in obstetrics and gynecology. He has known Respondent since 1976, when he first moved in to the medical office complex where they both practice. Dr. Weinberger wrote that he and Respondent "have been very close professionally and have referred patients to each other with complete confidence. [Respondent] has always been known to be the physician to refer to when no one else can figure out a complex medical problem." He has an understanding of Respondent's "difficult time some seven or eight years ago," and that Respondent has completed the Promises program.

16. John Noovasi, Pharm. D., is the chief pharmacist at the Century City Medical Plaza Pharmacy. He has known Respondent for over 25 years, both professionally and as a personal friend. Noovasi described the change in Respondent from 2003 when he was abusing substances to when he entered recovery in 2005. He wrote "... I am convinced that he has made a full recovery and, once again, is on the top of his game! He remains as one of the top doctors of Century City Medical Plaza and in the overall medical community." In addition, Noovasi comments on the change he has seen since Respondent completed a medical record keeping course. He notes that Respondent "has been meticulously keeping his own records accurate and up to date."

17. Peter Kastoff is Respondent's AA sponsor. He wrote that he has been an active member of AA for over 17 years and has sponsored hundreds of men. Kastoff has witnessed Respondent's "deep sense of gratitude for his sobriety" and that he "has helped others suffering from this condition."

18. Kevin Knox is the co-founder of The Sober Lifestyle. He has known Respondent for many years and they reconnected while attending the same AA meetings. Knox wrote that he has seen Respondent "candidly share his own, personal recovery with others and generously give his time to those in early recovery." Knox has found Respondent's "advice and medical expertise invaluable" in the context of his substance abuse recovery business. In addition, Knox notes that Respondent "has been forthright with me concerning his situation with the medical board."

19. David Wood is the CEO of the Wood Company. He has known Respondent for over five years. He wrote "Concerning [Respondent's] AA program, it is one of the best I've seen in my own 25 years of sobriety. I have known him to be a great asset to people in

AA by setting an example in sharing his experience, strength and hope in recovery, by helping newcomers stay in the program, and giving service to others.”

20. Joseph B. Patterson has been Respondent’s patient and friend for over 35 years. He wrote “For a number of years, I had been saddened and concerned to see that [Respondent] had a drug-addiction problem . . . with professional help over the past five years, he has steadily been improving, and today I feel confident in saying that he has made a full and complete recovery.” In addition, Patterson wrote that Respondent’s “life revolves around his love for the practice of medicine, and that is why he is held in such high esteem not only by his patients, but also by his fellow physicians. It would be a terrible waste and loss to the community if he were not able to continue his medical practice with full, unfettered credentials.”

21. Dr. Evelyn Mahmud is the principal of Jordan High School in Los Angeles. In a letter also signed by two football coaches, she expresses her appreciation for Respondent’s volunteer work and donations to the football program.

22. Eduardo Nuno is the project coordinator at the Vera Davis McClendon Youth and Family Center. She describes Respondent as a “dedicated, loyal volunteer, who has been a true asset to our center.” Respondent “has volunteered in our bi-weekly food pantry, serving over 200 seniors and homeless in the Venice community.”

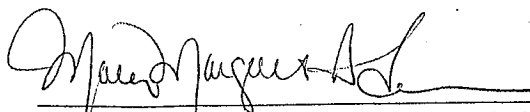
LEGAL CONCLUSIONS

Good cause exists for early termination of Respondent’s term of probation. All of the probationary terms, save the passage of a full five years, have been satisfied. He has had over five years of sobriety and enjoys significant support in his community, as well as a desire to use his medical training to help others who are struggling with addiction. It would not be against the public interest to permit him to practice medicine on an unrestricted basis at this time.

ORDER

The petition of Respondent Mark L. Saginor, M.D., for penalty relief is granted. Probation is terminated and physician and surgeon’s certificate number G8242 is fully restored.

DATED: November 18, 2010



MARY-MARGARET ANDERSON
Administrative Law Judge

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of Petition for Termination of Probation:)	
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Certificate No: G 8242)	
)	
Respondent)	

**ORDER OF NON-ADOPTION
OF PROPOSED DECISION**

The Proposed Decision of the Administrative Law Judge in the above-entitled matter has been **non-adopted**. A panel of the Medical Board of California (Board) will decide the case upon the record, including the transcript and exhibits of the hearing, and upon such written argument as the parties may wish to submit, including any argument directed to the question as to what is the correct standard of proof, by whom is it borne, and whether that standard has been met in this case. The parties will be notified of the date for submission of such argument when the transcript of the above-mentioned hearing becomes available.

To order a copy of the transcript, please contact California Reporting, LLC, 52 Longwood Drive, San Rafael, CA 94901. The telephone number is (415) 457-4417

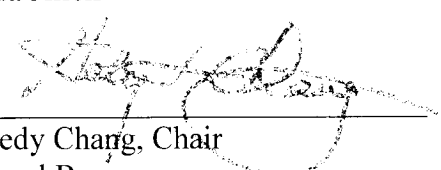
To order a copy of the exhibits, please submit a written request to this Board.

In addition to written argument, oral argument will be scheduled if any party files with the Board within 20 days from the date of this notice a written request for oral argument. If a timely request is filed, the Board will serve all parties with written notice of the time, date and place for oral argument. Oral argument shall be directed only to the question of what is the correct standard of proof, by whom is it borne, and whether that standard has been met in this case. Please do not attach to your written argument any documents that are not part of the record as they cannot be considered by the Panel. The Board directs the parties attention to Title 16 of the California Code of Regulations, sections 1364.30 and 1364.32 for additional requirements regarding the submission of oral and written argument.

Please remember to serve the opposing party with a copy of your written argument and any other papers you might file with the Board. The mailing address of the Board is as follows:

MEDICAL BOARD OF CALIFORNIA
2005 Evergreen Street, Suite 1200
Sacramento, CA 95815-3831
(916) 263-2624
Attention: Brenda Allen

Date: February 4, 2011



Hedy Chang, Chair
Panel B

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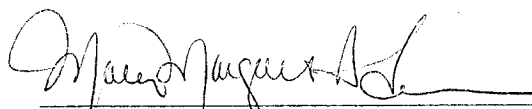
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ORDER

The petition of Respondent Mark L. Saginor, M.D., for penalty relief is granted. Probation is terminated and physician and surgeon’s certificate number G8242 is fully restored.

DATED: November 18, 2010



MARY-MARGARET ANDERSON
Administrative Law Judge